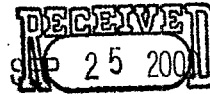


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Environmental Cleanup Office

September 25, 2000

Docket Coordinator, HQ.
US-EPA CERCLA Docket Office 5201G
1200 Pennsylvania Ave. NW
Washington, D.C. 20460

Gentlemen,

The EPA Fact Sheet, "Portland Harbor Site" Aug. 2000 states:
"a six-mile stretch of the Willamette River from the southern tip of Savvie Island to Swan Island (is) generally referred to as Portland Harbor"
This is not a true statement.
Later, on the same page, EPA states: "As the investigation of the Portland Harbor site proceeds, the site boundaries will be defined". May I help you define the boundaries?

I was an Oregon DEQ air and water inspector for suspected and known pollution sites along the Willamette River in and near Portland during the 1980-1990 period. I believe much of the sedimentary pollution you refer to in your "Portland Harbor" NPL Report originated far upstream in the downtown Portland Harbor. This is so basic that it makes me wonder why EPA and their hired experts are attempting to limit the "Portland Harbor" study only to the far downstream section of the harbor.

The Portland Harbor includes all of the Willamette River from your "six-mile stretch" upstream to at least the Ross Island Bridge including the infamous Zidell site.

While I was with the DEQ, the Slidell site was "off limits-hands off" to DEQ because EPA asserted exclusive jurisdiction for the site, presumably because the U.S. Navy was involved in the ship dismantling operations. See attached news story about the Zidell site.

If you have any questions I can be reached at:

576 Welcome Way SE
Salem, OR 97302
(503) 399-7993

Sincerely,
Harry M. Demaray

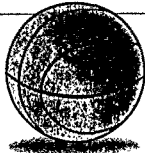
USEPA SF



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Fast company

Oregon's third-round NIT game at Texas Christian promises to be a run-and-gun affair. **Sports, E1**



G.I. Joe's calls halt

The sporting goods and automotive retailer cancels a public stock offering. **Business, B1**

Oregonian

LARGEST NEWSPAPER IN THE PACIFIC NORTHWEST

Weather

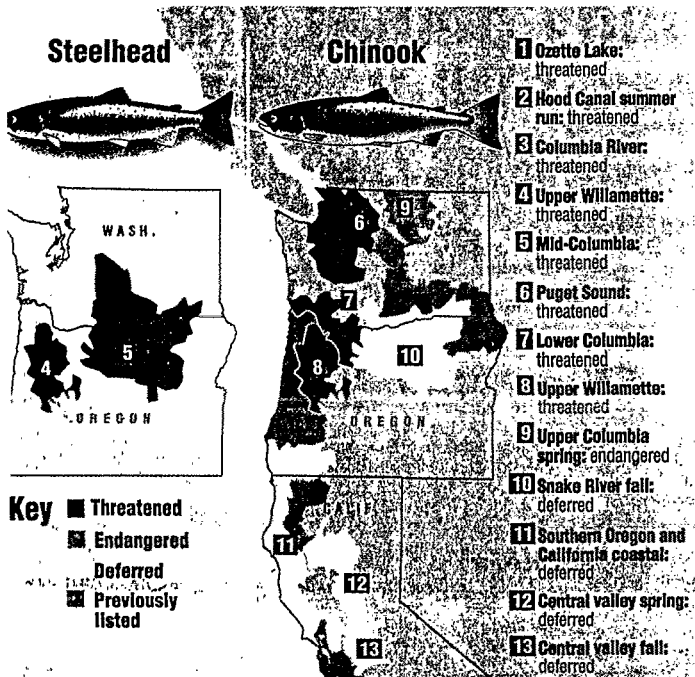


**Mostly cloudy
with rain**

High 54, Low 42.
For complete weather,
please see **Business, B8**

SPECIES LISTINGS

now covers steelhead



Threatened animals	Aleutian Canada goose	1967	Warner sucker	1985
on silverspot butterfly	Coho salmon	1980	Bluff trout	1998
on tul chub	Marbled murrelet	1985	Lahontan cutthroat trout	1970
ett speckled dace	Northern spotted owl	1985	Vernal pool fairy shrimp	1994
eagle	Western snowy plover	1995	Steelhead	1998

MICHAEL MADE, STEVE COWDEN/The Oregonian

Zidell seeks government money for cleanup

■ A lawsuit could force taxpayers to spend millions to help rid the company's Willamette River property of industrial contamination

By **BRENT WALTH**
and **DAVID AUSTIN**
of The Oregonian staff

Taxpayers may have to pay for millions of dollars in cleanup costs on Willamette River property that's been heavily contaminated after years of industrial use by the Zidell companies.

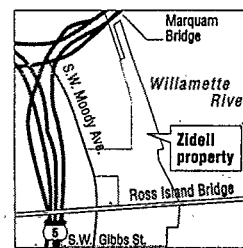
For decades, Zidell ran a scrap yard under the Ross Island Bridge. The city of Portland now wants to turn the area, called North Macadam, into a vibrant neighborhood.

The plan could enrich landowners, including Zidell. But first, Zidell faces a cleanup that could cost \$15 million to remove lead, PCBs and arsenic from its property.

Oregon Department of Environmental Quality records show Zidell over the years burned, dumped and buried hazardous substances at the 33-acre site.

But Zidell says much of the wastes came from about 200 ships its companies built or scrapped at the site for the U.S. Navy from 1940 to 1975.

And the federal law, commonly known as Superfund, may force the government to help pay to re-



Please turn to
ZIDELL, Page A15

Zidell: Deadline to settle lawsuit expires March 31

■ Continued from Page One

move those wastes because they came from Navy ships.

Zidell has brought a lawsuit against the U.S. government asking for millions of dollars toward "past, present and future" costs of dealing with the contamination.

Company President Jay Zidell declined to comment, but the firm's attorney justified the suit, which is filed in U.S. District Court.

"(The Navy) disposed of their materials at our site," said Dean D. DeChaine, a Portland attorney. "They have a responsibility for their share of the contamination."

In court filings, the U.S. Department of Justice, representing the Navy, has denied the allegations.

The two sides face a March 31 deadline set by U.S. Magistrate Dennis Hubel to see if they can settle the case without a trial.

The Zidell suit is reaching a turning point just as the city considers spending as much as \$200 million to help Zidell and other property owners redevelop North Macadam.

Lawsuit is news to mayor

Mayor Vera Katz, a champion of the redevelopment plan, has opposed using city money to clean up contamination in the area. But Katz said Zidell officials have not told her about the lawsuit seeking damages from U.S. taxpayers for the cleanup.

"I am a little bit fascinated with this court suit," Katz said, adding she didn't know if the legal fight would delay development.

The North Macadam District Plan calls for redeveloping 125 acres that stretch south of the Marquam Bridge to Johns Landing. Ownership is divided among five companies, including Zidell and Schnitzer Investment Corp.

Under the city's plans, the North Macadam area could become a vital urban neighborhood with shopping, offices and as many as 3,500 homes. Plans call for an extension of the Willamette Greenway trail, new boat docks and an outdoor amphitheater at the water's edge.

City officials want to spark development by creating an urban renewal district to finance some of the area's costs for roads, water lines, sewers and parks.

But first, the toxic legacy under-

the 1960s, Zidell also burned wastes, including wire insulation and, on occasion, car bodies. Zidell was hit with numerous air pollution violations, some stemming from fires that broke out when welders accidentally ignited grease.

Ships destined for scrap often arrived at Zidell's docks still filled with oil. Records show that workers had to pump oil off the vessels, and that led to oil spills, more than two dozen by 1972.

Records also show Zidell poured thousands of gallons of wastewater from old ballast tanks directly onto the soil. As one DEQ report said: "If the ballast water was uncontaminated, it was pumped into the river. If it was contaminated, it was discharged onto the ground."

In its suit against the government, Zidell claims its property became "unexpectedly and unintentionally damaged because of contamination."

The Zidell lawsuit is filed under federal and Oregon Superfund laws. The Zidell property is not a Superfund site. But Superfund law allows a property owner to reach back over decades and hold accountable anyone who sought to dispose of hazardous substances that have since contaminated the land.

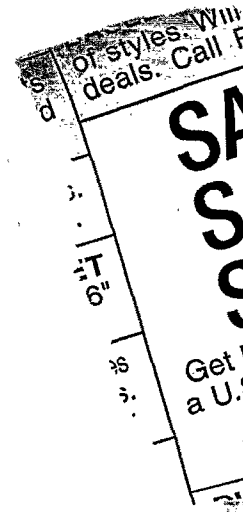
Craig Johnston, professor at Lewis & Clark College's Northwestern School of Law, is a national expert on Superfund law. He said the law could make the federal government liable for the pollution if the Navy intended to have Zidell dispose of the wastes.

In that case, he said, the court would have to decide how costs for cleanup should be divided. Johnston said, however, that doesn't mean Zidell will prevail.

"Just because the government is found liable doesn't mean taxpayers will have to pay," Johnston said. "It could very well be that the court could decide that the property owner is the most culpable and blameworthy here and should pay for all of it."

Lawyers for the government declined to comment because the case is ongoing.

Zidell attorney DeChaine said the government should have to help pay



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foot must be resolved. Zidell Vice President Steven L. Shain called the pollution a "minor part" of the North Macadam redevelopment. But he acknowledged cleanup costs could affect the plans. "Development is not going to occur here unless it's economic," Shain said. "Fortunately in this district there are some owners that have the ability to get these sites cleaned up and developed."

In 1995, Zidell signed an agreement with DEQ to clean up its property. Soil tests turned up 16 "hot spots" of lead, arsenic and PCBs in places that could become residential areas.

Lead poses one of the biggest concerns. Exposure to lead is linked to developmental problems in children and organ and nervous system damage in adults.

The Zidell hot spots have lead readings 10 to 41 times what's considered safe for residential areas, DEQ records show. One spot was 290 times the safe level.

DEQ eventually will tell Zidell how much cleanup is required, but the job could be expensive.

Some readings from the Zidell site are comparable to those on neighboring property owned by Schnitzer. In 1993, Schnitzer agreed to haul away as much as 3,000 cubic yards of heavily contaminated soil at a cost of \$1.9 million.

Capping soil suggested

Zidell, potentially with more land requiring cleanup, would like to avoid an expensive solution. DEQ records show that hauling away contaminated soil at the Zidell site could cost \$15 million.

Zidell has suggested a cheaper solution: capping the site with three feet of clean soil.

Shain said Zidell will support whatever solution is deemed best to protect human health. But he said capping must be performed anyway to lift the development site above the river's flood plain.

DEQ's Jim Anderson, project manager for the site, said capping alone may not be adequate. Capping "would be the least expensive option," he said. "But if we are talking about hot spots, there is a preference for treatment."

Zidell has been seeking help elsewhere to pay for the cleanup.

In August 1997, Zidell filed a lawsuit in Multnomah County Circuit Court against 36 insurance companies, claiming old policies should cover the cleanup costs. The case is pending.

Zidell filed its lawsuit against the U.S. government two months later. In that suit, Zidell's own handling of wastes could be a key issue.

Zidell companies have operated businesses on the site since 1919. After World War II, Zidell Explorations Inc. dismantled ships, including U.S. Navy vessels Zidell had purchased. The dismantled ships were sold for scrap.

During the years, DEQ records show, metal, asbestos and other debris often littered the site. Through

bution issue," he said. "The government needs to pay its share."

Brent Walth can be reached by telephone at (503) 294-5072 or by e-mail at brentwalth@aol.com.

David Austin can be reached by telephone at (503) 221-5383 or by e-mail at davidaustin@news.oregonian.com.

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